IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 25006 of 2003

Between:

Karnati Venkatesham, s/o Sri Yadagiri
Weaver, r/o Gattupala Village, Chandur Mandal,

Nalgonda District.

..... PETITIONER

AND

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1 Jella Biksham, s/o Raghunatham,
r/o Cherlapalli (V), Nalgonda Mandal and District.
2 The Election Officer, A.P. State Handloom Weavers

Co.op. Society Ltd., (APCO), Narayanaguda, Hyderabad.
3 The Commissioner, Handlooms & Textiles/Election

Authority, A.P. at 4th Floor, B.R.K.R.Bhavan,
Tank Bund Road, Hyderabad.
4 A.P. State Handlooms Weavers Co.op., Society limited,

Hyderabad rep., by its Managing Director at
No.3-5-770, Weavers Bhavan, Narayanaguda,

Hyderabad-29.
5 The Secretary, A.P.Cooperative Tribunal, Chandravihar,

7th Floor, M.J.Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of writ of mandamus declaring the respondent no.5 order dt.24-10-2003 passed in OP(SR) No.8006/2003 in returning the petition for presentation before the A.P. Cooperative Tribunal at

Warangal, as illegal, arbitrary, unjust and violative of Provisions of the A.P. Cooperative Societies Act; while issuing a consequential direction to the respondents to entertain the petition and decide the same in accordance with the rules in the interest of justice

Counsel for the Petitioner: MR.D.GOVARDHANACHARY

Counsel for Respondents 2 & 4: Mr. N. Rajeswar Rao

Counsel for Respondents 3 & 5: GP FOR COOPERATION

The Court made the following :

ORDER:

By an order dated 24-10-2003, O.P.(SR).No.8006 of 2003 instituted by the petitioner

assailing the election of the first respondent as director of the A.P. State Handloom Weavers Cooperative Society Limited, Hyderabad, was rejected on the ground that the Tribunal has no jurisdiction to try the election dispute between the petitioner and the first respondent, as both are residents and doing business within the local limits of the jurisdiction of the A.P. Cooperative Tribunal, Warnagal, and that merely because the election notification is issued, elections were conducted and declared for the Apex body (fourth respondent) in Hyderabad, the election petition could not have been instituted before the Hyderabad Bench of the Tribunal.

By an election notification issued by the second respondent on 27-8-2003, elections to the Managing Committee of the fourth respondent-society were notified. As per the schedule, nominations were received at the office of the fourth respondent and all the relevant process took place at Hyderabad, including the declaration of results. The first respondent was elected as a director of the fourth respondent-society in such election. The petitioner filed O.P.SR.No.8006 of 2003 before the A.P. Cooperative Tribunal, Hyderabad raising an election dispute under Section 61(3) of the A.P. Cooperative Societies Act, 1964, challenging the election of the first respondent as a director of the fourth respondent-society. *Inter alia* the petitioner assailed the qualification of the first respondent to contest the election on the ground that his very membership of the Cherlapalli Handloom Weavers Cooperative Society was invalid for various grounds urged by the petitioner. It is also the admitted factual scenario that the petitioner and the first respondent are residing and conducting their business within the local limits of the territorial jurisdiction of the A.P. Cooperative Tribunal, Warangal.

However, that fact by itself does not confer jurisdiction on the A.P. Cooperative Tribunal, Warangal to adjudicate upon an election dispute in respect of the membership of the Managing Committee of the fourth respondent-society.

The relevant statutory provision is Section 61 (3) of the A.P. Cooperative Societies Act, 1964, which reads as under:

> "Every dispute relating to, or in connection with, any election to a committee of a society referred to in Clause (a) of sub-section (3) of Section 31 shall be referred for decision to a Subordinate Judge, or where there is no such Subordinate Judge, to the District Judge having jurisdiction over the place where the main office of the society is situated, whose decision thereon shall be final."

Indisputably, the main office of the fourth respondent-society is situated within the limits of the territorial jurisdiction of the A.P. Cooperative Tribunal, Hyderabad. It is therefore, the A.P. Cooperative Tribunal, Hyderabad alone, which has the jurisdiction to adjudicate upon the election dispute presented by the petitioner in O.P.SR.No.8006 of 2003. The contrary view recorded by the Tribunal, Hyderabad by its order dated 24-10-2003 is thus illegal and manifestly contrary to the explicit provisions of Section 61(3) of the Act and the same is accordingly set aside. The A.P. Cooperative Tribunal, Hyderabad shall now proceed to hear and dispose of O.P.SR.No.8006 of 2003 on merits and in accordance with law, on the basis that it has the jurisdiction to adjudicate upon the election dispute.

Nothing in this order shall however be considered by the Tribunal, Hyderabad as an expression by this court on the merits of the substantial controversy between the petitioner and the first respondent, which shall fall to be considered by the Tribunal, Hyderabad in accordance with law.

The Writ Petition is accordingly allowed with the above observations. There shall be no order as to costs.

Goda Raghuram, J.

3rd December, 2004

js.

That Rule Nisi has been made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday the Third day of December, Two thousand and four.

To

1 The Election Officer, A.P. State Handloom Weavers

Co.op. Society Ltd., (APCO), Narayanaguda, Hyderabad.
2 The Commissioner, Handlooms & Textiles/Election

Authority, A.P. at 4th Floor, B.R.K.R.Bhavan,
Tank Bund Road, Hyderabad.
3 The Managing Director A.P. State Handlooms Weavers Co.op.,

Society limited, No.3-5-770, Weavers Bhavan, Narayanaguda,

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4 The Secretary, A.P. Cooperative Tribunal, Chandravihar,

7th Floor, M.J.Road, Hyderabad.

5 2 CCs to G.P. for Cooperation, High Court Buildings, Hyderabad.

6 2 CD copies